

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

DAWN D. LAGERKVIST, M.D.)	
)	
Plaintiff,)	
)	CIVIL NO.
vs.)	
)	
UNITED STATES OF AMERICA)	
)	
Defendant.)	

COMPLAINT FOR REFUND

Dawn D. Lagerkvist, M.D., by counsel, for her Complaint for Refund, alleges and states:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is a resident of the Northern District of Indiana.
2. This is an action pursuant to 26 U.S.C. §7422 to recover a refund.
3. Jurisdiction and venue are proper in this district pursuant to 28 U.S.C. §1346.

BACKGROUND

4. Dr. Lagerkvist was the sole shareholder of Thrive Medical Services, LLC (“TMS”), an Indiana limited liability company.

5. At all relevant times, TMS was engaged in business as a medical provider.

6. Shortly after its formation, someone on behalf of TMS (it is unclear who actually prepared the form as it was filed in 2011) filed form SS-4 to obtain an EIN. A true and accurate copy of the Form SS-4 is attached as Exhibit 1 and incorporated herein for all purposes.

7. As shown on Exhibit 1, the filer inadvertently checked Box 14 as electing to file Form 944 annually rather than quarterly Form 941s.

8. Notably, Box 13, regarding the number of employees, was not completed. Had it been, the inadvertent nature of the election in Box 14 would have been apparent, as TMS at all times had several employees, paid wages well in excess of \$4,000 and incurred payroll taxes well in excess of \$1,000.

9. At all relevant times, TMS filed timely and accurate Form 941s. Indeed, by letter dated June 29, 2012, the IRS sent a letter to TMS acknowledging receipt of Form 941 for the period March 31, 2012. A true and accurate copy of the June 29, 2012 letter is attached as Exhibit 2 and incorporated herein for all purposes.

10. The Form 941s filed by TMS represented a good faith attempt to comply with the law and included all of the information necessary to determine the tax due.

11. On May 23, 2017, the IRS assessed Dr. Lagerkvist under IRC §6672 for unpaid withholding taxes for the year 2012.

12. Dr. Lagerkvist paid the tax and on or about November 29, 2018 filed an application for refund on Form 843. A true and accurate copy of Form 843 is attached as Exhibit 3 and incorporated herein for all purposes.

13. The request for refund was denied on July 12, 2021. A true and accurate copy of the denial is attached as Exhibit 4 and incorporated herein for all purposes.

14. This action is timely filed pursuant to 26 U.S.C. §422.

REQUEST FOR REFUND

15. The timely and accurate filing of Forms 941 for the year 2012 constitutes the filing of a “return” for purposes of determining when the statute of limitations begins to run.

16. Any assessment for the tax year 2012 should have been made by April 15, 2016.

17. The assessment for 2012 was made on May 23, 2017, after the expiration of the applicable statute of limitations.

REQUEST FOR RELIEF

For the foregoing reasons, Dr. Lagerkvist respectfully requests that she be refunded the assessed amount of \$93,594.22 plus interest and penalties as provided by statute.

Respectfully submitted,

CARSON LLP

/s/ Robert L. Nicholson

Robert L. Nicholson/#16153-02

Attorney for Plaintiff

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